

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANGELICA PARKER,

Plaintiff,

-- against --

SCOTT BURSOR and
BURSOR & FISHER, P.A.,

Defendants.

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Case No.:

Removed from:
Supreme Court of the State of New York
County of New York,
Index No. 952325/2023

NOTICE OF REMOVAL OF CIVIL ACTION

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

PLEASE TAKE NOTICE that Defendants Scott Bursor and Bursor & Fisher, P.A. (“Bursor & Fisher,” and with Mr. Bursor collectively, “Defendants”), by and through their attorneys, Judd Burstein, P.C., hereby remove this civil action, styled *Parker v. Bursor et al.*, Index No. 952325/2023 (Sup. Ct. N.Y. Co.) (the “State Court Action”), from the Supreme Court of the State of New York, County of New York to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. §§ 1332(a), 1441, and 1446. In doing so, Defendants appear solely for the purpose of removal and not for any other purpose, expressly reserving all available defenses and objections.

Annexed hereto as Exhibit A is a true and accurate copy of the electronic docket in the State Court Action, together with true and accurate copies of all documents filed in that Action.

The grounds for removal are as follows:

1. Upon information and belief, Plaintiff Angelica Parker (“Plaintiff”) is a citizen of the State of New York for the purposes of 28 U.S.C. § 1332 because she is a resident and domiciliary of that State. The sources of this information and belief are that (a) the operative

pleading (the Amended Summons with Notice which Plaintiff filed in the State Court Action) states that her address is 400 East 57th Street, Apt 15A, New York, New York 10022 (*see* Exhibit B hereto, a true and accurate copy of the Amended Summons with Notice)¹, and (b) the January 11, 2024 Declaration of Defendant Scott Bursor (“Bursor Dec.”), annexed hereto as Exhibit C, states that Mr. Bursor has personal knowledge that Plaintiff is domiciled in the State of New York. *Id.*, at ¶ 4.

2. Defendant Scott Bursor is a citizen of the State of Florida for the purposes of 28 U.S.C. § 1332 because he resides and is domiciled in Miami, Florida. Bursor Dec., at ¶ 2.

3. Defendant Bursor & Fisher is a citizen of the State of Florida for the purposes of 28 U.S.C. § 1332 because it is an unincorporated professional association solely owned by Scott Bursor. It was formed under the laws of the State of Florida and maintains its principal place of business located at 701 Brickell Avenue, Suite 1420, Miami, FL 33131. Bursor Dec., at ¶ 3.

4. Plaintiff initiated the State Court Action by filing a Summons with Notice on November 22, 2023, naming only Mr. Bursor as a Defendant. A true and accurate copy of the Summons with Notice is annexed hereto as Exhibit D.

5. Plaintiff then filed an Amended Summons with Notice on November 24, 2023, adding Bursor & Fisher as an additional Defendant. Exhibit B hereto.

6. The Amended Summons with Notice may be deemed “an initial pleading for purposes of the federal removal statute.” *Whitaker v. Am. Telecasting, Inc.*, 261 F.3d 196, 204 (2d Cir. 2001).

¹ All true and accurate copies of all pleadings filed in the State Court Action are also annexed as part of Exhibit A hereto.

7. The Amended Summons with Notice is procedurally deficient because the Notice does not, as required by CPLR 305(b), state “the sum of money for which judgment may be taken in case of default.” However, the accompanying Declaration of Judd Burstein (annexed hereto as Exhibit E), at ¶¶ 7-8, demonstrates that the State Court Action is properly removed to this Court pursuant to 28 U.S.C. § 1446(c)(2)(A) because (a) Plaintiff was previously represented by counsel who informed Mr. Burstein that if Plaintiff sued Mr. Bursor, she would be seeking damages in excess of \$75,000,² and (b) the Amended Summons with Notice seeks equitable relief.

8. On December 21, 2023, Defendants were served with the Amended Summons with Notice. Bursor Dec., at ¶¶ 5-6.

9. On January 10, 2024, Defendants served a timely Demand for Complaint pursuant to CPLR § 3012(b). A true and accurate copy of the Demand for Complaint is annexed hereto as Exhibit F.

10. Pursuant to 28 U.S.C. § 1446(b)(2), all Defendants consent to the removal of this action. Bursor Dec., at ¶ 7.

11. Pursuant to 28 U.S.C. § 1441(a), venue is proper in this Court because it is the District Court for the District and Division embracing the place where the State Court Action is pending.

12. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal, together with all Exhibits hereto, will be promptly filed with the Clerk of the Supreme Court of the State of New York, County of New York. Because Plaintiff is *pro se*, Defendants’ counsel will also be serving a copy of this Notice of Removal, together with all Exhibits hereto,

² As Defendants’ counsel will inform Plaintiff, they will consent to a remand of this action if Plaintiff states that she is seeking less than \$75,000 in damages.

upon her by (a) email at the email address (i) from which she has communicated with Mr. Burstein, and (ii) which she registered on the New York State Case Electronic Filing (NYSCEF) website for the State Court Action, and (b) FedEx for Saturday delivery at the address she has listed on the Amended Summons with Notice.

13. The undersigned is counsel for Defendants and is duly authorized to effect removal on their behalf.

WHEREFORE, Defendants request that (a) the State Court Action be removed to this Court, and (b) this Court grant such other or further relief, and enter such orders, as may be deemed necessary or appropriate in conjunction therewith.

Dated: New York, New York
January 11, 2024

Respectfully submitted,

JUDD BURSTEIN, P.C.



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